THE UNITED STATES COURTS, THEIR JURISDICTION, PRACTICE, ETC.

The salient features of the United States Courts may be briefed as follows:

There are nine Judicial Circuits in the United States and one Justice or Associate Justice on the bench of the United States Supreme Court assigned to, or representing each of these circuits, and required in each year to do stated circuit court work in such circuit, a requirement which is now only observed by Associate Justices Field, Brewer and Brown of the Far West, and is simply impossible in the present state of the Supreme Court business, to wit, about four years behind-hand.

This court, up to the establishment of the Circuit Courts of Appeals, March 3, 1891, had jurisdiction to review all errors of law in the United States Circuit Courts, constitutional questions and conflicts of laws from the State Supreme Courts, and both the law and the facts in patent and copyright cases in the United States Circuit Courts, and in all cases from the Territorial courts.

But now, when it shall have disposed of its pending volume of business, its jurisdiction will be mainly of constitutional questions and of those arising under the laws and treaties of the United States and of the States of the Union in conflict with each other and with such laws and treaties, and of capital cases arising in the lower United States courts.

There is also a Circuit Court of Appeals in each circuit, composed in theory of the justice or associate justice of the circuit, and all the circuit judges of the circuit, which sits as long as the business requires each year. Practically, these courts consist of such of the circuit judges as did not sit when the case was tried below, with district judges assigned from time to time to maintain a proper quorum or bench for the disposition of business, generally of three and not less than two judges.

These courts have jurisdiction of all errors of law in the Circuit Courts in common law cases where the contention involves $1000, or the validity of a patent or copyright, and also to review the judgments of the District Courts in matters of admiralty, with the right, if it shall deem proper, of a retrial of the facts upon

further and additional proofs. The decisions of these courts on all matters of common law, banking, insurance and railroad law, patents and admiralty must become very controlling in the jurisprudence of the country.

There are about seventy districts, or an average of about nine to every judicial circuit. A few of these districts are divided in two or more divisions and the courts are held in each division one or more terms each year. This makes, indeed, a multitude of United States courts, numerically, but still they do not cover the whole land as do the State courts, and in at least nineteen counties out of every twenty in the land no United States Court ever sits. About sixty district judges do the court work of all these districts, for in some portions of the West and South, where the volume of business is small, a single judge attends to the business of more than one district in several instances.

In each district there is a District Court, having such sessions as are prescribed by statute and having original jurisdiction mainly of offenses against United States laws, of proceedings in admiralty, bankruptcy and naturalization, and of certain suits against the United States and as to national banks and customs collections authorized specifically by statute. It has no general common law jurisdiction.

In each district there is also a Circuit Court holding also such sessions as are prescribed by statute, and having exclusive jurisdiction of patent and copyright litigation, a common law and equity jurisdiction in matters between parties residing in different States where the amount in issue is $2,000 or more. It has also the same jurisdiction of criminal matters as the district court, but in practice these matters are seldom brought to it originally and if so, are remitted to the District Court for trial or final disposition. It also has jurisdiction of naturalization. Since the establishment of the Circuit Courts of Appeals it has no appellate jurisdiction of matters in admiralty from the District Courts.

The district judges of each district are expected to hold both the District and the Circuit Courts in their own districts and to keep the dockets clear of each class of business, and generally they are able to do this, but in some of the larger districts, like the Southern District of New York, where the volume of admiralty business equals one-third of all the other districts in the United States, and in the Eastern District of New York where there is a very large volume of similar business, the district judges have very little or no time to give to their circuit court work except in cases of emergency, and in these districts

extra circuit judges have been appointed and other district judges of the same circuit are regularly assigned to take care of the Circuit Court work.

The mass of lawyers have very little to do with United States courts; the professional labors of a life-time never bring some of them to its bar at all and many others but few times with long stretches of years between. So they are contented to remain in ignorance of its practice and some are even desirous to avoid it if their clients will allow.

But the aversion is hardly justifiable for lawyers of general practice. It is quite easy for a lawyer who has plenty to do in the State courts to say, "I know nothing about United States court practice, nor do I want to," as I have heard frequently, but there is really little excuse for it. To be equipped to take care of one's clients, whatever may be the forum where their rights must be maintained, is the truer ambition, and it certainly requires no great additional labor to care for them as faithfully in the United States courts as in the State courts, and the practice in all branches is decidedly easy and comfortable.

The criminal and common law business of the United States courts is by the statute of 1892 conformed to the practice in the State courts for similar business. The bulk of the civil business of these courts is, however, equity practice, including patent and copyright litigation in the Circuit Court and admiralty litigation in the District Court.

These two classes of litigation have fallen chiefly into the hands of practitioners making them specialties; but it is not at all necessarily so, for if any one will consult the celebrated cases of these departments in the United States courts, such a one will discover that as many of the greatest successes in these particular lines have been won by "good-all-around lawyers" as by the specialists.

In each of these fields the law preparation is quite limited. Important cases that have been months in preparation often go to the court with less law issues requiring study than are presented to the court in every day's trial of a common law case; and the fact that the testimony is in general all taken in advance and printed long before hearing, eliminates all surprises and gives full opportunity to get in all the testimony there is in favor of one's client, and to shut out all such as may have been improperly offered against him.

The rules as to the pleading and the perfecting of the issues in equity cases are the same in all the Circuit courts of the United

States, being the Supreme Court rules of practice in equity, supplemented by the present practice of the High Court of Chancery in England. Under these rules the practice is quite uniform and differs only as to details of bringing matters on for hearing and proceeding upon decrees interlocutory and final.

The explanation and comparison of mechanical and patentable devices of all kinds may be forbidding at the first inspection, but a high degree of success is often attained by lawyers of very limited legal acquirements.

In admiralty, the man who understands the sea and the winds, courses and distances, sails and ships, and has spent much time among them and loves them, can more readily discern what act or omission really brought about a collision and whose fault it was, than a landsman. Yet few good lawyers would have any kind of difficulty with an admiralty case if it was loaded upon them unexpectedly any morning, for there is the greatest latitude allowed as to pleading and evidence in all the courts, and the evident purpose of the admiralty courts is, that if a man has a case at all, he shall not be prevented from putting it in if he finds it out any time before judgment.

Removed cases from the State court by reason of diverse citizenship or local prejudice, and the motion to remand such cases, form a considerable percentage of the law hearings in the Circuit courts, and surely every lawyer, once in a case, should be ready to follow it wherever it goes. Then, when the removal is sustained, there are many questions in the air as to the proper procedure to issue and trial, which the practitioner in the State court is as competent to argue as any.

Thus it will be seen that in all branches of practice in the United States courts the rules of pleading and evidence are comparatively simple, and once mastered the field of the ordinary practitioner is much enlarged. And as advantages may many times be gained by taking a case to the United States courts, every law student should be as well prepared for practice there as in the State courts.

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